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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
 )  
Closed Captioning and Video Description )  
of Video Programming )  
 )  
Implementation of Section 305 of the )  
Telecommunications Act of 1996 )  
 )  
Video Programming Accessibility )

MM Docket No. 95-176

To: The Commission

**RESPONSE OF HSN, INC.**

HSN, Inc. ("HSNI"), through its attorneys and pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, hereby responds to Petitions for Reconsideration filed in response to the *Report and Order* <sup>1/</sup> in the above-captioned proceeding (the "*Order*"). <sup>2/</sup> HSNI, through its subsidiary Home Shopping Club, Inc.,

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<sup>1/</sup> *Closed Captioning and Video Description of Video Programming, Report and Order*, MM Docket 95-176, FCC 97-279 (released Aug. 22, 1997) (the "*Order*"). The *Order* promulgates a series of captioning requirements (the "Captioning Rules"), which differ in a number of respects from the regime the Commission proposed in an earlier notice. See *Closed Captioning and Video Description of Video Programming, Notice of Proposed Rulemaking*, FCC 97-4 (released Jan. 17, 1997) (the "*Notice*"). In response to the *Notice*, HSNI submitted comments highlighting issues of particular concern to HSNI (the "HSNI Comments").

<sup>2/</sup> The following entities submitted Petitions for Reconsideration: Outdoor Life Network, L.L.C. ("Outdoor Life"), the Game Show Network, L.P. ("GSN"), Association of Local Television Stations ("ALTV"), NIMA International ("NIMA"), National Association for the Deaf ("NAD") and Consumer Action Network ("CAN") (jointly), Self Help for Hard of Hearing People, Inc. ("SHHH"), Encore Media Group, Association of America's Public Television Stations, and Wireless Cable Association International, Inc. NIMA

distributes electronic retail programming by which viewers may purchase products they want or need without leaving their homes. HSNi offers two separate services of electronic retail programming, both of which offer new live programming 24 hours a day, 7 days a week. During this programming, HSNi typically relies on the visual image of a product to convey the essence of the product, and often accompanies visual images of the product with pertinent textual information about that product, including critical price and ordering information.

The *Order* declined to grant a particular exemption for electronic retail programming, though it explicitly suggested that electronic retailers later pursue individual waiver under the *Order*. <sup>3/</sup> Two petitions for reconsideration underscore that such an approach is neither desirable nor necessary. <sup>4/</sup> Because these petitions, as well as HSNi and other electronic retailers' prior comments, demonstrate that closed captioning requirements should focus initially on programming that needs captioning to be fully accessible to viewers, HSNi supports the NIMA and ALTV Petitions and asks the Commission to adopt a general captioning exemption for electronic retailers who provide visually pertinent product and price information about every product they display.

The burdens of captioning electronic retail programming greatly outweigh the benefits, which are minimal since this programming is deliberately produced in a

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also submitted a request for a stay of the *Order* and the Captioning Rules pending reconsideration.

<sup>3/</sup> See *Order* at ¶ 150.

<sup>4/</sup> See NIMA Petition at 2-4; ALTV Petition at 9.

manner that makes it accessible with or without audio. First, as NIMA suggests, electronic retailers (like short-form advertisers) have sufficient market incentives to caption as much of their programming as possible. 5/ Second, because electronic retailers rely on visual images to sell their products, mandatory captioning is both unnecessary and distracting from the message that an electronic retailer seeks to convey to the viewer. 6/ Third, the costs of captioning such programming, especially all-live retail programming like HSNi's, may impair the ability of electronic retailers to bring products to their viewers at competitive prices, thus harming viewers, product manufacturers, and the network. 7/ Fourth, as noted throughout the comments of electronic retailers, the frequency of errors in captioning, especially the stenocaptioning necessary for this *all live* programming, may cause confusion among viewers faced with discrepancies between erroneous captions and the information already displayed visually on the screen. 8/

Fifth, and perhaps most important, captions on HSNi's electronic retail programming are unnecessary because HSNi makes a point of displaying the critical information about a product in on-screen text. This effort explains, at least in part, why HSNi already receives numerous responses from viewers on its TTY service (which averages several calls per day). 9/ Although the Commission may be unwilling to grant

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5/ See NIMA Petition at 2, 4.

6/ See *id.* at 3.

7/ See ALTV Petition at 9.

8/ See *Order* at ¶ 114.

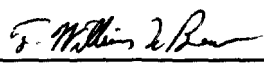
9/ See HSNi Comments at n.9.

a general exemption to electronic retailers that do not display price, product number, and other critical information on screen throughout their programming, HSNi suggests the adoption of specific guidelines, which would permit electronic retailers to use alternate means of displaying product information in lieu of captions to ensure that viewers are getting the most important product information virtually all of the time.

In light of the foregoing, HSNi urges the Commission to consider the petitions of ALTV and NIMA and to adopt a captioning exemption for electronic retailers who provide critical price, product, and ordering information visually to their viewers.

Respectfully submitted,

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Dated: November 20, 1997

## **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Response of HSN, Inc. were mailed, postage prepaid this 20th day of November, 1997 to:

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